



06 SEP 2002

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In re Application of
ASLIN et al.
Application No.: 10/018,242
PCT No.: PCT/SE00/01278
Int. Filing Date: 16 June 2000
Priority Date: 18 June 1999
Attorney Docket No.: P4811US00/EB/MR
For: INHALER

DECISION ON
PAPERS UNDER 37 CFR 1.42

This is a response to the declaration filed 01 July 2002 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 16 June 2000, applicants filed international application PCT/SE00/01278, which claimed a priority date of 18 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 December 2000. A proper Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire on 11 December 2001.

On 18 December 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee and a preliminary amendment.

On 01 March 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 01 July 2002, applicants filed an declaration executed by: Goran Aslin; Oscar Alexandersson; Lennart Burnnberg; and Nikolaus Blomqvist, on behalf of deceased inventor, Nils Blomqvist.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed 01 July 2002 is executed by: Goran Aslin; Oscar Alexandersson; Lennart Burnnberg; and Nikolaus Blomqvist, as the "legal representative" of the deceased inventor, Nils Blomqvist. The declaration submitted appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

37 CFR 1.497(b)(2) states the following:

(2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(b)(2), the declaration must also provide residence, citizenship, and post office address for the legal representative. The declaration filed on 01 July 2002 provides this information with respect to the deceased inventor, but not the legal representative. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicants are required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTHS** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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